



THE CITY OF NEW YORK
LAW DEPARTMENT
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November 28, 2012

By e-mail: Furman_NYSDChambers@nysd.uscourts.gov

The Honorable Jesse M. Furman
United States District Judge
United States District Court
500 Pearl Street
New York, NY 10007

Re: *The City of New York v. Gordon, et al.*, 12 cv 4838 (JMF)

Dear Judge Furman:

I represent plaintiff the City of New York ("City") in this action involving the shipment of untaxed cigarettes into the City. As you may recall, defendants plan to file motions to dismiss and the City has already filed a motion for a preliminary injunction, in aid of which the Court ordered limited discovery.

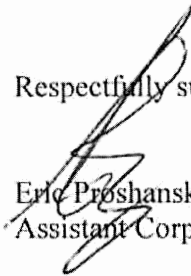
I write concerning a discovery dispute between the City and Marcia and Robert Gordon ("Gordon Defendants") that the parties have been unable to resolve despite extensive discussions. As permitted under the Court's October 12, 2012 Order, the City served limited discovery on the Gordon Defendants on October 16. Despite interim discussions aimed at speeding the discovery process, in which the City requested that the Gordon Defendants respond prior to the discovery cut-off date of November 9, the Gordon Defendants waited until the cutoff date to "stonewall" on every single discovery request, raising entirely meritless objections. (A copy of the Gordon Defendants' discovery responses is attached.) Several subsequent discussions among counsel ensued, but the dates on which responsive answers were promised have repeatedly come and gone.

In view of the fast-approaching deadlines for filing motions and oppositions, the City respectfully requests that the Court order the Gordon Defendants to respond to the City's discovery within 5 business days or convene a conference to resolve this impasse.

Hon. Jesse M. Furman
11/28/2012

Thank you for Your Honor's attention to this matter.

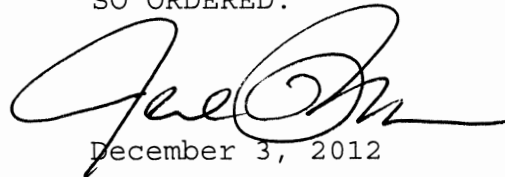
Respectfully submitted,



Eric Proshansky
Assistant Corporation Counsel

The Court will hold a telephone conference to address the matter raised herein on December 5, 2012, at 10 a.m. Plaintiff's counsel shall call the Court at 212-805-0282, with defense counsel on the line, at that time. Defense counsel is directed to file a letter in response to this letter by December 4, 2012, at 3 p.m.

SO ORDERED.



December 3, 2012